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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,987	11/12/2003	Sergejs Trusovs	6517-0304	2986

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EXAMINER

NAZARIO GONZALEZ, PORFIRIO

ART UNIT PAPER NUMBER

1621

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/605,987	<b>Applicant(s)</b> TRUSOV, SERGEJS	
	<b>Examiner</b> Porfirio Nazario-Gonzalez	<b>Art Unit</b> 1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

*10*

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Prosecution on the merits of this application is reopened on claims 1-4 and 9 are considered unpatentable for the reasons indicated below:

Claims 1-4 and 9 are anticipated by U.S. Patent No. 3,014,026;

Claims 1-4 and 9 are anticipated by Rendleman et al., Carbohydrate Research, 201, pp. 311-326 (1990), cited by Applicants;

Claims 1-4 and 9 are anticipated by Fallico et al., J. Agric. Food Chem., Vol. 47, No. 6, pp. 2255-2261 (1999), cited by Applicants; and

Claims 1-4 and 9 are anticipated by O'Brien et al., Elsevier Science Publishers, 1995, cited by Applicants.

2. Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1621

4. Claims 1-4 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 3,014,026. The '026 patent discloses the reaction between an amino acid, monosaccharide and ferric chloride. See column 3, lines 67-75 through column 5, lines 1-63. Note that the milling of the metal chelate to form a powder is within the perview of one skilled in the art.

5. Claims 1-4 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rendleman et al., Carbohydrate Research, 201, pp. 311-326 (1990), cited by Applicants. The Rendleman et al. article discloses the formation of a copper chelate by the reaction of D-glucose, glycine and  $\text{Cu}^{2+}$  ions (from  $\text{CuCl}_2$ ). See page 313.

6. Claims 1-4 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fallico et al., J. Agric. Food Chem., Vol. 47, No. 6, pp. 2255-2261 (1999), cited by Applicants. The Fellico et al. article discloses the reaction between glucose, phenylalanine and  $\text{FeCl}_2$  resulting in the formation of an iron chelate. See experimental section on page 2256.

7. Claims 1-4 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by O'Brien et al., Elsevier Science Publishers, 1995, cited by Applicants. The O'Brien et al. article discloses the formation of a metal chelate between a Millard reaction product (fructose and glycine) and a metal ion from a metal chloride salt. See entire document.

***Allowable Subject Matter***

8. Claims 5-8 are allowed. The prior art does not teaches the addition of an oxidizing compound to the reaction mixture.

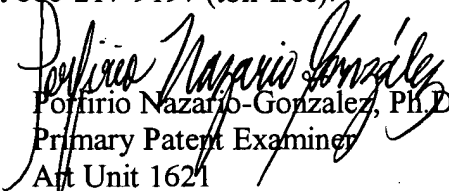
Art Unit: 1621

9. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Porfirio Nazario-Gonzalez whose telephone number is 571-272-0641. The examiner can normally be reached on Mon.-Fri. (9:30 AM - 6:00 PM).

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann R. Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Porfirio Nazario-Gonzalez, Ph.D.  
Primary Patent Examiner  
Art Unit 1621

PNG  
September 28, 2005